

U.S. COURTS

OCT 21 2004

REC'D FILED
CAMERON S. BURKE
CLERK IDAHO

Newton

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS VELASQUEZ-ORTEGA,

Defendant.

Cr. No. 04-136-S-BLW

PRELIMINARY
ORDER FOR FORFEITURE

This matter having come before the Court upon Plaintiff's Motion for Preliminary Order of Forfeiture, and based upon the record and filings herein, the Court makes the following findings and order:

A Plea Agreement was entered into between Carlos Velasquez-Ortega and the United States of America on July 26, 2004, by which the defendant pled guilty to violations of 18 U.S.C. §§ 922(g)(5). Said Plea provides for forfeiture of any and all interests the defendant possessed in the following property pursuant to 18 U.S.C. § 924(d) and made applicable pursuant to 28 U.S.C. § 2461(c):

Firearms and Ammunition to include:

One Norinco, Model 213, 9 mm pistol, bearing serial number 619626 and eight 9mm bullets

Based on the file herein, including the Plea Agreement, and the factual basis set out therein, for the reasons stated at bar, and pursuant to the Plaintiff's Motion for Preliminary Order of Forfeiture:

THE COURT FINDS that the above-described property was property which was involved in a violation of 18 U.S.C. § 922(g)(5).

PRELIMINARY ORDER OF FORFEITURE - 1

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1 Upon entry of this Order, the United States Attorney General (or a designee); is authorized to
2 seize the above-listed property, and to conduct any discovery proper in identifying, locating or disposing
3 of the property subject to forfeiture, in accordance with Fed R. Crim P. 32.2(b)(3).

4 Upon entry of this Order, the United States Attorney General (or a designee); is authorized to
5 commence any applicable proceeding to comply with statutes governing third party rights, including
6 giving notice of this Order.

7 The United States shall publish a one-time notice of the order and its intent to dispose of the
8 property in such a manner as the United States Attorney General (or a designee) may direct. The United
9 States may also, to the extent practicable, provide written notice to any person known to have an alleged
10 interest in the Subject Property.

11 Any person, other than the above-named defendant, asserting a legal interest in the Subject
12 Property may, within thirty days of the publication of notice or receipt of notice, whichever is earlier,
13 petition the court for a hearing without a jury to adjudicate the validity of his alleged interest in the
14 Subject Property, and for an amendment of the order of forfeiture, pursuant to 21 U.S.C. § 853(n)(6).

15 Any petition filed by a third party asserting an interest in the Subject Property shall be signed
16 by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right,
17 title, or interest in the Subject Property, the time and circumstances of the petitioner's acquisition of the
18 right, title or interest in the Subject Property, any additional facts supporting the petitioner's claim and
19 the relief sought.

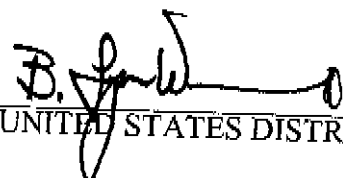
20 After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a
21 hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Civil
22 Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

23 The United States shall have clear title to the Subject Property following the Court's disposition
24 of all third-party interests, or, if none, following the expiration of the period provided in pursuant to 21
25 U.S.C. § 853(n)(2), for the filing of third party petitions.

26 This Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant
27 to Fed. R. Crim. P. 32.2(e).

1 The Clerk of the Court shall forward a certified copy of this Order to Assistant U.S. Attorney
2 Anthony G. Hall, U.S. Attorney's Office, MK Plaza, Plaza IV, 800 Park Blvd., Suite 600, Boise, ID
3 83712.

4 DATED this 21st day of October, 2004.
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8 UNITED STATES DISTRICT JUDGE
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United States District Court
for the
District of Idaho
October 22, 2004

dkh

* * CLERK'S CERTIFICATE OF MAILING * *

Re: 1:04-cr-00136

I certify that I caused a copy of the attached document to be mailed or faxed to the following named persons:

Aaron N Lucoff, Esq. 1-208-334-1413
US ATTORNEY'S OFFICE
MK Plaza, Plaza IV
800 Park Blvd #600
Boise, ID 83712

Philip H Gordon, Esq. 1-208-345-0050
GORDON LAW OFFICES
623 W Hays
Boise, ID 83702-5512

Carlos Velasquez-Ortega
INTERPRETER
Eduardo Silva
297 Davis Ave
Nampa, ID 83651

U.S. Marshal
HAND DELIVERED

Probation
HAND DELIVERED

✓
____ Chief Judge B. Lynn Winmill
____ Judge Edward J. Lodge
____ Chief Magistrate Judge Larry M. Boyle
____ Magistrate Judge Mikel H. Williams

Visiting Judges:
____ Judge David O. Carter
____ Judge John C. Coughenour
____ Judge Thomas S. Zilly

*Certified copy of order
to Anthony Hall, AUSA
DX*

Cameron S. Burke, Clerk

Date: 10-22-04

BY: *DX*
(Deputy Clerk)